



MINUTES
Committee on Ways and Means
Wednesday, August 17, 2016 @ 8:15 a.m.
10th Floor Conference Room, City Hall

CALL TO ORDER

The meeting was called to order at 8:15 a.m.

ROLL CALL

Councilmember Judi Brown Clarke, Chair
Councilmember Carol Wood, Vice Chair
Councilmember Tina Houghton, Member- arrived at 8:19 a.m.

OTHERS PRESENT

Sherrie Boak, Council Staff
Jim DeLine, Interim City Council Internal Auditor
Jim Smiertka, City Attorney
Denise Estee
Bill Barkyoumb
Teresa Faussetto
Lynne Meade

MINUTES

Action moved to the next meeting.

Public Comment on Agenda Items

Public comment will be taken during the agenda items.

Discussion/Action:

Resolution – First Amendment of the Defined Contribution Plan

Mr. Barkyoumb clarified the need for the amendment. Currently the plan states that the investment management collects, when technically the City collects and remits to the management plan as directed by the participants. This amendment is to correct the defect.

Council Member Wood asked for clarification from Law, since she is member of the defined contribution group that collects benefits if she could make the motion and vote, and Mr. Smiertka state any trustee can make a motion.

MOTION BY COUNCIL MEMBER WOOD TO APPROVE THE RESOLUTION ON THE FIRST AMENDMENT OF THE DEFINED CONTRIBUTION PLAN. MOTION CARRIED 3-0.

Update on Tie-Bar Memo Status

Mr. Smiertka confirmed he had met with Ms. Estee and Ms. Meade on August 16th where they went over the details and the history of the issues. The step is to meet with the Administration with the plans to report back to the Committee at the next meeting.

Council Member Wood reminded the group that they also need to make sure if there were changes needed or refunds, that process needs to be determined also. Mr. Smiertka noted he would meet with Finance to see the economic ramifications.

Ms. Estee acknowledged the meeting with Mr. Smiertka and provided him with additional information that she did not have at her meeting with him on August 16th. This was a list of names from February 2004 – May, 2014 where she believed was a 10 year period where the City has not given the retirees the correct plan or charged correctly. The document reflected group 580 retirees that were impacted. Ms. Estee believed the list contained up to 90 names. Mr. Smiertka accepted the documents. Ms. Meade also acknowledged Mr. Smiertka participation in a meeting.

Council Member Wood informed Mr. Smiertka of another issue where contracts are being ratified, however they are not modifying the ordinances based on those contracts, some going back 3-4 years. She is recommending to Council that they no longer approve a contract until it is writing. Mr. Smiertka asked for clarification on the concern if it was there are no contracts or not converted into ordinance. Council Member Wood informed Mr. Smiertka that currently all Council sees is a document with bullet points on it, must return the document, and they never see them converted into the contract. Mr. Smiertka made it known he was not aware of this process, and acknowledged there are two issues; there needs to be a signed contract, and two the collective bargaining agreement appears to supersede the ordinance, those should be converted into ordinance.

Ms. Meade noted that if both sides agree to changes, they should be in the contract, in writing and signed off by both sides. Council Member Brown Clarke added that those signed documents should also be made available on line to all members anytime they need to see their contracts. Ms. Meade did clarify that the process now is there are no longer bullet point documents, but the proposals have the exact language for contract so nothing is vague.

Council Member Brown Clarke clarified that the next meeting is not in two weeks, but September 7th, at which point this item will appear on the agenda again.

Ms. Estee informed the group that from February, 2007 to January, 2011 there was a contract but not signed, and so the question is, was that legally binding. Mr. Smiertka noted that it would depend on the facts, and once they start acting on it, it becomes valid. Ms. Estee added there was a contract 2007 to January, 2012 that has nothing in written material either.

Council Member Brown Clarke asked that at the table there should not be people who are not part of the decision, and that the proposals should be approved by Law before presented to Council so that after Council approves they are not informed that Law did not sign off on it. Ms. Estee asked that HR be responsible for the record keeping, and Mr. Smiertka stated that can also be added in the ordinance.

Ms. Estee asked that it be noted that on April 20, 2016 she sent a letter to Ms. Riley, HR Director, and has no response, and also has emailed her with no response. There was also a FOIA request sent to Mr. Dotson, with the original dates of April 22, 2016 and April 28th, 2016.

These were resent July 25, 2016, but no response yet other than acknowledgement of receiving her email. Mr. Smiertka confirmed that the log is now on the Attorney web page, and the topic of unanswered FOIA's or denied without approval from Council President are topics on his staff meeting agenda for Monday, August 22, 2016.

Vacancy Report

No one from Human Resources or Finance were present, so Council Member Brown Clarke recapped the details from her meeting with Mary Riley, HR Director on August 2nd and what was discussed at the August 3, 2016 Committee meeting with Ms. Black from HR. The hopes for the Committee are that something will be presented at the Committee meeting on September 7, 2016. Ms. Meade asked that a column be added to the sheet to reflect the positions that are being filled on an "Interim" basis by current employees. Council Member Wood suggested that when the Committee looks at the Budget Priorities they add in a section that addressed that positions be filled in a timely manner.

Threshold on Council Approval on Separation Agreements

Mr. Smiertka presented two draft resolutions that spoke to the City Council participation in decisions regarding claims the City Attorney may have against the City and any At-Will employees have against the City. The recent provision in the Charter, Chapter 4; 6-401 has been into the last 3 employment contracts. The ordinance on classification for the executive management plan has the Mayor proposing additions or modifications to the fringe benefits with the rules having to be ratified by Council. It was acknowledged that Law is being told the fringe benefit will be before Council at the end of year will have that new Charter portion addressed. Council has ability to approve litigation, but there is nothing in the Charter on Council approve of claims, unless Council wants to include that provision to include claims. Mr. Smiertka offered that one way to handle that would be when the fringe benefit package comes up to Council they add a provision that any separation agreement cannot be added until approves by the Mayor and ratified by Council. Council Member Wood reminded Mr. Smiertka that in the past Council was told they can make suggestions, but the Mayor does not have to accept those. Mr. Smiertka confirmed that statement citing Ordinance 286.05 that states *The Mayor shall establish the compensation for employees covered by the executive management plan, formally known as the executive pay plan, or mayoral staff. (2) The Mayor shall establish all fringe benefits for said employees in an executive management fringe benefits plan...* Mr. Smiertka acknowledged that it appears the issue is what is covered over and above the 120 days they are granted. One suggestion he made was to put it in the annual fringe benefit plan that Council sees every year. Another way suggested was to make a charter amendment. Lastly, he suggested they could adopt a resolution, which were the documents he distributed earlier.

Council Member Houghton asked for clarity on the word "participation" in the resolutions. Mr. Smiertka stated it can be changed to "engaged".

The Committee discussed the funding used for claims or judgements, and payments for litigation. Mr. DeLine outlined the finance process of using the funds at a yearend disbursement to the departments. Council Member Houghton asked for clarification from Finance on the funding and practice in Finance.

MOTION BY COUNCIL MEMBER WOOD TO APPROVE THE RESOLUTION FOR DECISIONS ON AT-WILL EMPLOYEE CLAIMS. MOTION CARRIED 3-0.

MOTION BY COUNCIL MEMBER WOOD TO APPROVE THE RESOLUTION FOR DECISIONS ON CITY ATTORNEY CLAIMS. MOTION CARRIED 3-0.
Resolution will appear before Council on August 29, 2016.

ADJOURN

Adjourn at 9:30 a.m.

Submitted by,

Sherrie Boak, Recording Secretary Lansing City Council

Approved by the Committee on September 7, 2016